



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 23, 2010

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Medical Cannabis Dispensary Ordinance Phase I Revisions

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending the Municipal Code by Revising Chapter 28.80 and Establishing Revised Regulations and Procedures for Medical Marijuana Dispensaries.

DISCUSSION:

The current Medical Marijuana Dispensary Ordinance (MMDO) was adopted in March 2008. In July 2009, in response to public concern about the number of dispensaries that were being processed, the City Council initiated a process to revise the MMDO. The Ordinance Committee held hearings during the fall of 2009, wherein proposed revisions were discussed, and a draft ordinance was produced. In December 2009, the Planning Commission made recommendations regarding the draft ordinance, and the Council adopted an ordinance that suspended the MMDO for 45 days.

On January 26, 2010, the Council's Ordinance Committee made final recommendations to Council. These recommended revisions have been incorporated into the attached ordinance. On February 2, 2010, the Council adopted an ordinance that extended the suspension ordinance pending decisions of final revisions to the MMDO.

A summary of the history and previous recommendations by the Ordinance Committee and the Planning Commission regarding the Medical Cannabis Dispensary Ordinance is included in the January 26, 2010 Ordinance Committee report (Attachment 1), and a reading file with previous Council, Ordinance Committee and Planning Commission staff reports is available at the Mayor and Council office.

Council's initial direction was to discuss MMDO ordinance revision options including: a cap on the number of dispensaries, security requirements, locational requirements, and

a reduced amortization period for existing, nonconforming dispensaries. The Ordinance Committee's final recommended revisions are as follows:

1. A citywide cap of seven (7) dispensaries, one in each of eight (8) geographical areas:
 - a. Outer State
 - b. De la Vina
 - c. Mission
 - d. Downtown, east of Santa Barbara Street
 - e. Downtown, west of Santa Barbara Street
 - f. Milpas
 - g. Mesa
 - h. Cottage Hospital

The Planning Commission recommended restricting the locations of dispensaries by increasing the types of protected uses (adding religious institutions, day care centers, pre-schools, institutions where youth congregate, recovery facilities, etc.) and increasing the prohibition radii from 500 feet to 1000 feet (See Attachment 1, Ordinance Committee Report). The Ordinance Committee did not forward these recommendations to Council. The Ordinance Committee recommended that the allowable areas remain substantially the same as the current ordinance.

The eight allowable areas have been described in the draft ordinance as an exhibit to the ordinance. The areas are described by using block faces, and have been mapped (Attachments 2-9). This change in methodology was made because of the dynamic nature of the current ordinance's methodology, which changes the allowable area every time a school or park is established, and, as a result, does not provide certainty to any interested party (dispensary operators, neighbors, private school operators, etc.). The block face methodology provides a clear and identified area where dispensaries are allowed.

As drafted, the draft ordinance only allows dispensaries on blocks where the full block faces on both sides of the street are available. Blocks with parcels that are not allowed due to prohibition radii, on either side of the street, were excluded. Therefore, the areas available for dispensaries would be somewhat smaller than in the current ordinance. In addition, the specific "sensitive use" radius requirements do not need to be contained within the actual ordinance.

The Ordinance Committee's recommendation to Council was not unanimous. Councilmember White did not support the Phase I revisions endorsed by the Committee because he agreed with the Planning Commission's recommendation that the maximum number of dispensaries be in the range of 2-4.

2. A reduced amortization period of six months from the adoption date of this ordinance is being suggested by the Ordinance Committee for the following reasons:

Existing, nonconforming dispensaries (those which have existed prior to the adoption of the March 2008 ordinance and continued to operate legally since opening) must either receive approval for their existing locations or close. The existing March 2008 ordinance allows nonconforming dispensaries to remain in their current location through April 2011.

The Ordinance Committee also recommended that existing permitted dispensaries be allowed to remain in their current locations as long as they comply with the revised operational requirements, and if multiple dispensaries exist within a single geographic area, the number of dispensaries would only be reduced by attrition.

If these ordinance revisions are adopted as recommended by the Ordinance Committee, the effect on pending, approved, appealed, legally operating and nonconforming dispensaries would be as outlined in Attachment 9. Several pending applications would not be allowed to proceed because they would result in multiple dispensaries in the same area. Another pending application would not be allowed to move forward because it's in an existing, mixed use building with residential condominiums. In those areas where multiple applications are pending, the application deemed complete first would be allowed to go to hearing first. If the first complete application were to be approved, the remaining applications would not be allowed to move forward. If it were not approved, then the next complete application would be allowed to move forward.

3. A prohibition on dispensaries in mixed use buildings, where the residential units are condominiums, and the mixed use project is existing at the time the amendment is approved.
4. More discretion for the Staff Hearing Officer or Planning Commission, in the form of changes to criteria for issuance #7 and #10, which are revised to read as follows:
 - a. "7. That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule, or regulation and no significant nuisance issues or problems are likely or anticipated ~~or resulted~~ and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished."
 - b. "10. That the dispensary is likely to have no potentially ~~would not~~ adversely effect on the health, peace or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance; or that the dispensary will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests."

See §28.80.090., Criteria for Issuance, in the attached ordinance, for all criteria.

5. A prohibition on dispensaries within 1000 feet of the Casa Esperanza shelter. [This prohibition has been incorporated into the Exhibit which list the allowed dispensary locations.]
6. A requirement that security for the dispensary be provided by a separate “private-party operator” security company, which is licensed by the State.
7. A requirement for annual review of the operation of permitted dispensaries by the Police Department.
8. Appeal of Planning Commission decision on Medical Marijuana Dispensary Permits to the City Council.
9. Minor and other miscellaneous changes to the draft ordinance language.

MMDO Suspension Ordinance Status

The attached ordinance contains a section that repeals the MMDO suspension on the effective date of these revisions, which is 30 days after the adoption of the ordinance. Currently, pending applications are being processed through application completeness. Upon repeal of the suspension, staff will continue to process applications, schedule complete applications for hearings, and terminate applications that are precluded because of previously permitted dispensaries in their areas. Additionally, the six month amortization period will begin, during which permitted dispensaries must update their operational plans, and nonconforming dispensaries must either get approved or close down.

BUDGET/FINANCIAL INFORMATION:

The City will charge an hourly rate for the processing of Medical Marijuana Dispensary Permits, so that the full cost of processing the permits and for each annual review will be covered.

If the Council implements the proposed MMDO revisions, the Council may want to discuss scheduling a Council consideration of a City ballot measure that would increase the business license fee on medical marijuana dispensaries, and, if appropriate, request the City Attorney’s office to evaluate the legal permissibility of such a business license fee vis-à-vis recent state court decisions concerning the sale of medical marijuana at dispensaries.

ATTACHMENTS:

1. Ordinance Committee Report, January 26, 2010, without attachments.
2. Outer State Street Area Map
3. De la Vina Area Map
4. Mission Area Map
5. Downtown – East of Santa Barbara Area and West of Santa Barbara Area Map
6. Milpas Map
7. Mesa Map
8. Cottage Hospital Area Map
9. Table showing status of dispensaries

Previous Council Agenda Reports, Ordinance Committee and Planning Commission staff reports are available in a reading file at the Mayor and Council office.

PREPARED BY: Danny Kato, Senior Planner

SUBMITTED BY: Paul Casey, Assistant City Administrator

APPROVED BY: City Administrator's Office



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE REPORT

AGENDA DATE: January 26, 2010

TO: Ordinance Committee Members

FROM: Planning Division, Community Development Department

SUBJECT: Medical Cannabis Dispensary Ordinance Phase I Revisions

RECOMMENDATION: That the Ordinance Committee:

- A. Review the Planning Commission's recommendations;
- B. Finalize the outstanding issues, and provide direction to staff; and
- C. Make recommendations to Council for possible ordinance introduction.

INTRODUCTION

On August 14, 2007, in response to a high level of community input and concern regarding the proliferation of unregulated medical cannabis dispensaries, and their negative effects on neighborhoods, the City Council initiated a process to: 1) suspend the opening of any further dispensaries, and 2) regulate medical cannabis dispensaries. On March 25, 2008, the City Council adopted the Medical Cannabis Dispensary Ordinance (MCDO), which incorporated locational, operational, and procedural requirements.

The first medical cannabis dispensary to comply with the regulations is located at 331 N. Milpas, and was approved on November 19, 2008. That dispensary was not controversial, and was approved without public comment or an appeal. During the winter and spring of 2009, the City received many applications for dispensaries. The second dispensary to go through the process is located at 500 N. Milpas. This dispensary caused the community to mobilize in opposition to this particular application and dispensaries in general. This and subsequent dispensary applications were very controversial, and all approvals were either appealed to or suspended by the Planning Commission.

On July 28, 2009, in response to concern about the potential proliferation of permitted dispensaries, and the desire to increase the locational and operational requirements for dispensaries, the City Council directed the Ordinance Committee (OC) to review the existing MCDO, and make recommendations for revisions. The Ordinance Committee met five times: September 15th, September 29th, October 6th, October 20th, and November 24th.

On October 20th, the Ordinance Committee directed Staff to draft a revised ordinance based on its recommendations. The Ordinance Committee reviewed the draft ordinance (Phase I Revisions) at its November 24th meeting.

On November 17, 2009, the City Council directed the Ordinance Committee to consider further amending the MCDO to accomplish the following (Phase II revisions):

1. Make it more clear that, pursuant to state law (i.e. the Compassionate Use Act), the City would only allow the cultivation and distribution of medical marijuana through cooperatives or collectives; and
2. Develop further City regulations for storefront cooperatives and collectives such that they are required to operate as true collectives/cooperatives in a manner consistent with the state Attorney General August 2008 "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use."

The Council also directed staff to continue processing the Phase I revisions that the Ordinance Committee recommended on October 20th and to return to Council as soon as possible with an ordinance suspending the approval of new marijuana dispensaries pending the consideration of these long-term dispensary ordinance revisions. This ordinance was adopted on December 15, 2009, and is effective through January 29, 2010. On January 26, 2010, the Council is scheduled to introduce an ordinance that would extend the suspension for up to 10 months and 14 days, or the adoption date of the revised ordinance. The suspension extension ordinance is scheduled for adoption on February 2, 2010.

PROPOSED REVISIONS

The Ordinance Committee recommended the following revisions to the Council:

1. A citywide cap of seven dispensaries, one in each of the following seven geographic areas:
 - a. Outer State
 - b. De la Vina
 - c. Mission
 - d. Downtown, east of Santa Barbara Street
 - e. Downtown, west of Santa Barbara Street
 - f. Milpas
 - g. Mesa

The proposed ordinance does this by eliminating language that allows dispensaries in the C-2 and C-M Zones, and expanding the list of special areas where

dispensaries are allowed. This methodology results in a smaller area where dispensaries are allowed.

2. A reduced amortization period of six months for existing, nonconforming dispensaries (those that existed legally prior to the adoption of the current ordinance, in March 2008), starting at the adoption date of the proposed revisions. At the end of this reduced amortization period, these nonconforming dispensaries would be required to cease operations, unless a new application at a conforming location is approved.
3. A prohibition on dispensaries in existing, mixed-use building, where the residential units are condominiums.
4. More discretion for the Staff Hearing Officer or Planning Commission, in the form of changes to criteria for issuance #7 and #10. (see Attachment 1, §28.80.090.B.7 and 10.)
5. A prohibition on dispensaries within 1000 feet of Casa Esperanza.
6. A requirement that security be provided by a separate private party operator security company, which is licensed by the State.
7. A requirement for annual review of permitted dispensaries by the Police Department and the Staff Hearing Officer.
8. Minor and miscellaneous changes to the draft ordinance language.

The Ordinance Committee did not recommend changing the appeal procedure (Planning Commission decision is final) or expanding the allowable areas to the Cottage Hospital area or the Coast Village Road area.

The revisions described above, as well as some minor and miscellaneous changes, have been incorporated into the draft ordinance (Attachment 1).

PLANNING COMMISSION RECOMMENDATIONS

The Planning Commission reviewed the draft Phase I revisions on December 17, 2009. The Commission agreed with the City Council's direction to develop the Phase II revisions and to suspend the processing of new applications. The Commission made the following recommendations:

1. Reduce the total number of dispensaries to a maximum of 2-4
Staff Comment: Currently, there are two, legally operating dispensaries: 331 N. Milpas, which opened in June 2009, and 500 N. Milpas, which opened January 5, 2010. The approved dispensary at 631 Olive has an active building permit, and is anticipated to open in the near future. Reducing the total number of dispensaries to a number of three or fewer would effectively stop the processing of all pending applications.
2. Reduce the number of allowable geographic areas from seven to four or fewer by combining districts;
3. Expand the list of protected land uses to include:
 - a. All alcohol and drug rehabilitation facilities, not just Casa Esperanza;

- b. Institutional facilities where youth congregate, such as Girls Inc., or the Boys and Girls Club.
- c. The list of uses in the Adult Entertainment Ordinance (See Attachment 1, excerpts from the Adult Entertainment Facilities Ordinance).

Staff Comment: Based upon analysis of these suggestions, this recommendation would effectively ban dispensaries in the City.

- 4. Increase the radii around protected uses from 500 feet to 1000 feet;

Staff Comment: This recommendation would reduce the allowable areas, and the combination of #3 and #4 would ban dispensaries in the City.

- 5. Allow dispensaries in the Cottage Hospital area;

Staff Comment: Staff supports this recommendation, although it could require changes to the storefront requirements, as a dispensary in the Cottage Hospital area would most likely be in an office without a visible storefront.

- 6. Change the decision making body from the Staff Hearing Officer to the Planning Commission, with an appeal to City Council;

Staff Comment: Staff supports this recommendation. When originally conceived, the MCDP was a fairly non-controversial land use permit, with a limited amount of discretion, so review by the Staff Hearing Officer was appropriate. With increased discretion, controversy and contentiousness, initial review by the Planning Commission with an appeal to City Council seems more appropriate.

The Commission agreed with the proposal to reduce the amortization period for existing, nonconforming dispensaries, and did not seem to have issues with the Ordinance Committee's other recommendations.

Staff requested that the Planning Commission make specific recommendations on the allowable locations for dispensaries, as the Ordinance Committee did have time to discuss the issue in detail (See Attachment 2: PC Staff Report, 12/17/09). Except for recommendations above, the Planning Commission declined to do so, stating that the final determinations on locations is premature, given the extent of the changes that must still be made.

OUTSTANDING ISSUES

The following issues must be finalized prior to ordinance introduction by Council:

- 1. **Number of dispensaries and number of geographic areas**
- 2. **MCDP decision making body and appeal body**
- 3. **Amortization Period for existing, nonconforming dispensaries.**

The Ordinance Committee recommended a 6-month amortization period for these dispensaries, but the starting date has not been finalized. Additionally, the Committee may want to discuss the length of the reduced amortization period further, as it may not be appropriate or fair to require these dispensaries to close if new regulations have not yet been adopted.

4. **Amortization period for approved and permitted dispensaries that become nonconforming due to the revisions.**
The Ordinance Committee recommended that these dispensaries be allowed to remain in their location indefinitely, but submit amendments to their existing permits, to conform to the new operational requirements within six months.
5. **Allowable locations for dispensaries, including Cottage Hospital area**
There are discrepancies between the locations allowed by the current ordinance and the proposed ordinance. A final determination of allowable locations would be helpful. A complete discussion of this topic is contained in the PC Staff Report (Attachment 2).
6. **Next Steps**
Because there are three major pieces of the Medical Cannabis discussion: 1) the suspension of the current ordinance; 2) the Phase I revisions, and 3) the Phase II discussions and potential revisions, there seem to be multiple approaches to next steps.
 - a. Continue to Council for Introduction and Adoption of the Phase I revisions, and begin the Phase II discussions. Lift the suspension when:
 - i. Phase I revisions are adopted or effective.
 - ii. Phase II revisions are adopted or effective.
 - b. Prepare the Phase I revisions for Introduction and Adoption (i.e. staff finalizes the proposed ordinance language), but do not schedule an Introduction hearing at to Council. Begin the Phase II discussions, and incorporate Phase I and Phase II revisions into a single amendment. Lift the suspension when the Phase II revisions are adopted or effective.
 - c. Option for approaches a. or b.: Proceed with a revision that changes the amortization period for existing, nonconforming dispensaries, but no other changes in Phase I.

STAFF RECOMMENDATION

Staff recommends that the Ordinance Committee review the Planning Commission's comments, finalize the outstanding issues, provide direction to staff, and make recommendations to Council.

ATTACHMENTS:

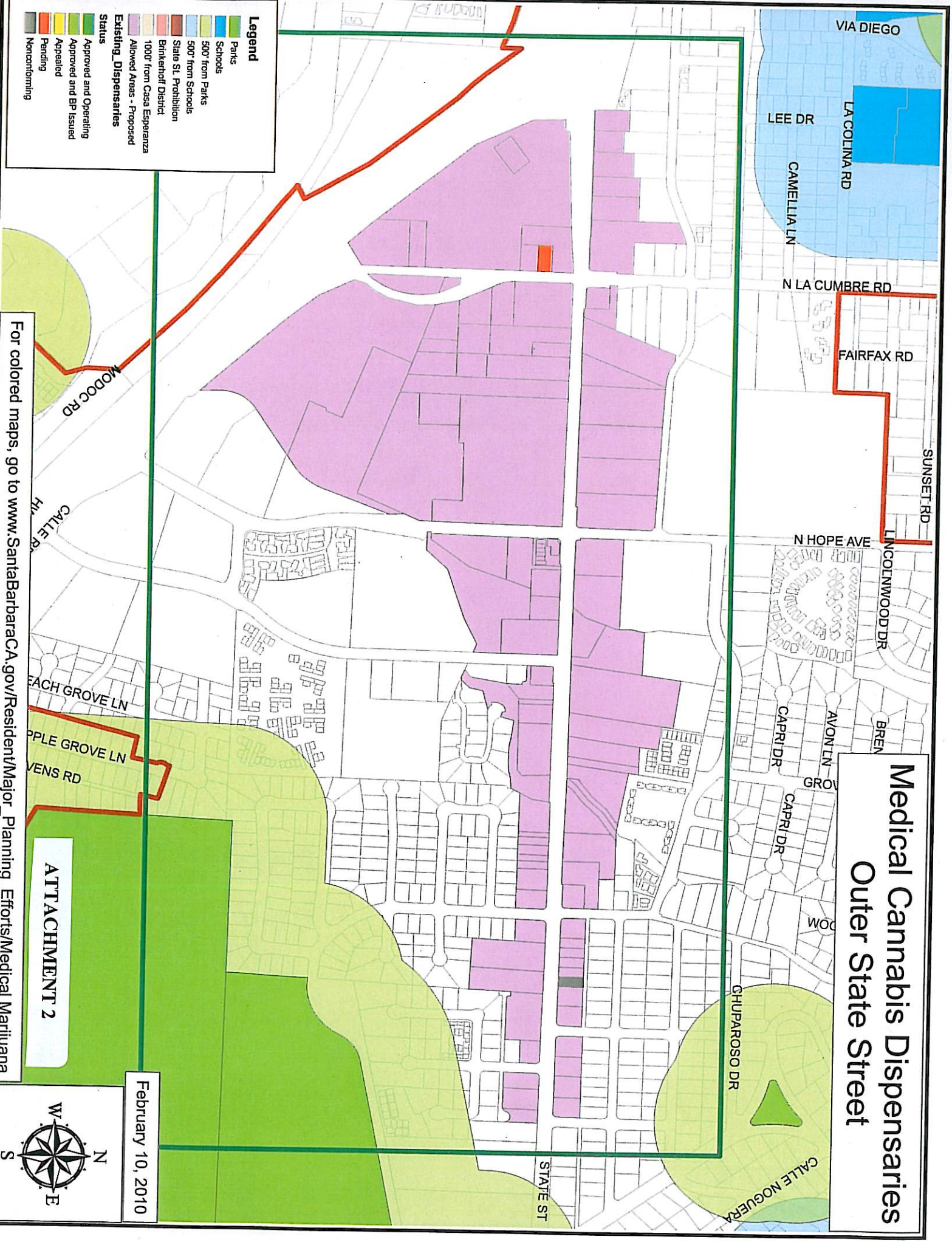
1. Draft Ordinance
2. Excerpt from the Adult Entertainment Facilities Ordinance
3. Planning Commission Staff Report, 12/17/09

PREPARED BY: Danny Kato, Senior Planner

SUBMITTED BY: Paul Casey, Asst. City Administrator – Community Development

APPROVED BY: City Administrator's Office

Medical Cannabis Dispensaries Outer State Street



For colored maps, go to [www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana](http://www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana)

February 10, 2010

ATTACHMENT 2

ALLEY 100 BLOCK CALLE ALAMO

ALLEY 100 BLOCK CALLE PALORADO

STATE ST

DE LA VINA ST

VERDE VISTA DR

E ALAMAR AVE

MIRADERO DR

HERMOSA RD

SAMARKAND DR

LOMITA RD

SERENA RD

WYOLA RD

ARDEN RD

W ALAMAR AVE

EL VEDADO LN

LEY DR

CUESTA RD

EL PRADO RD

VERNON RD

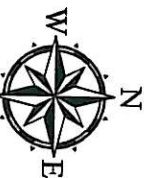
W CONSTANCE AVE

Legend

- Parks
- Schools
- 500' from Parks
- 500' from Schools
- State St. Prohibition
- Birkenhoff District
- 1000' from Casa Esperanza
- Allowed Areas - Proposed
- Existing_Dispensaries
- Status
 - Approved and Operating
 - Approved and BP Issued
 - Appealed
 - Pending
 - Nonconforming

Medical Cannabis Dispensaries De la Vina

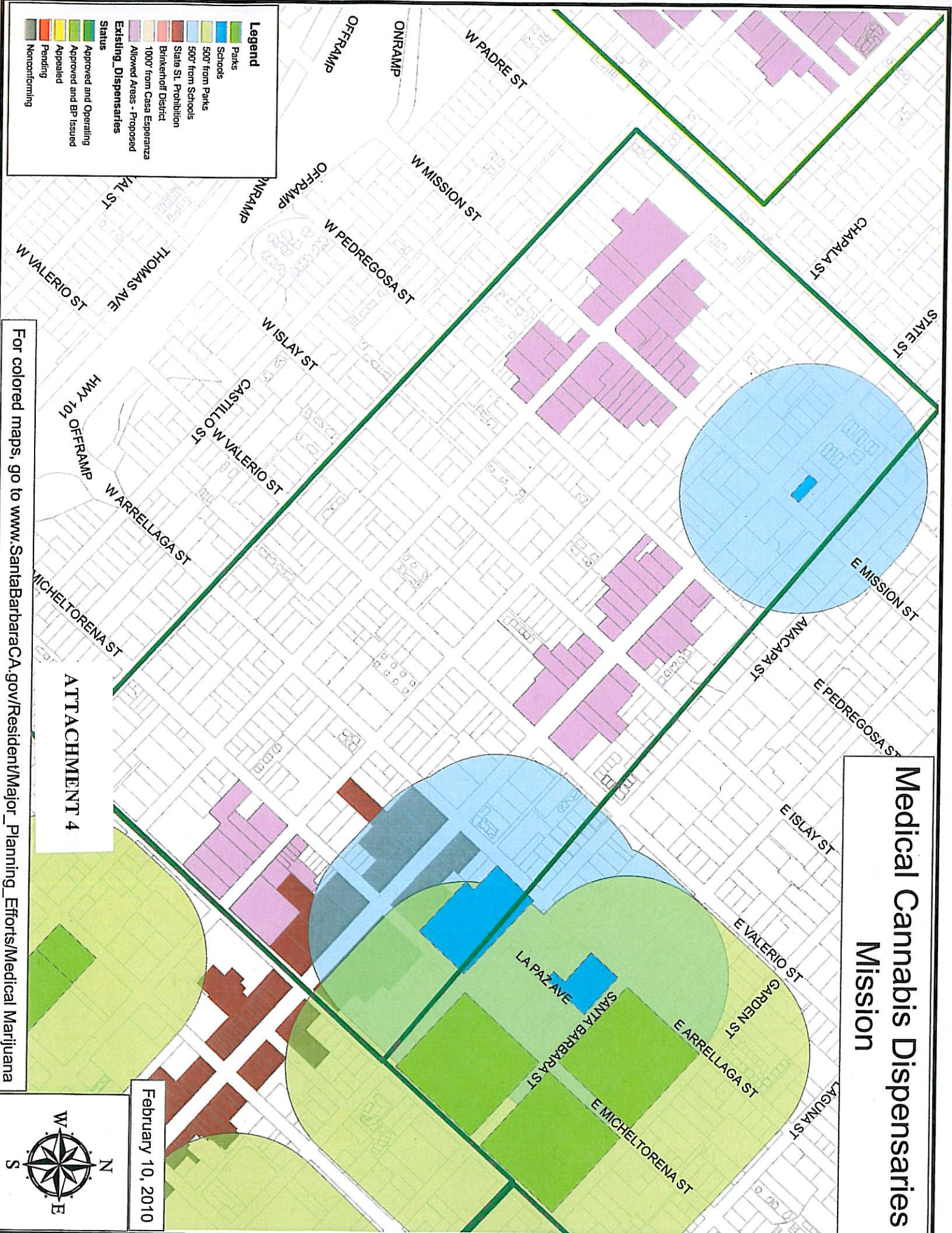
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ATTACHMENT 3

For colored maps, go to [www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana](http://www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana)

Mission



February 10, 2010

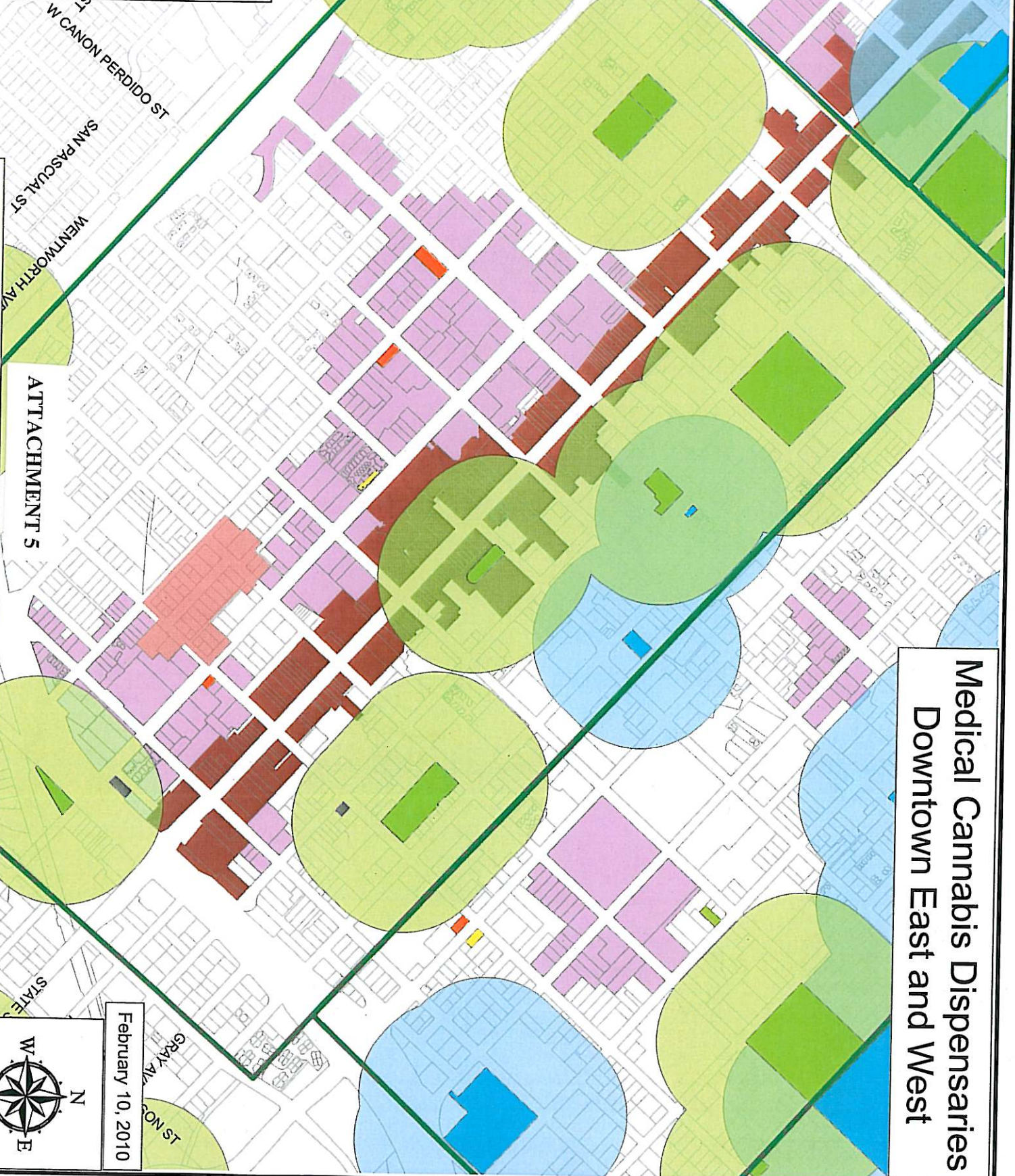


ATTACHMENT 4

For colored maps, go to www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana

Medical Cannabis Dispensaries Downtown East and West

- Legend**
- Parks
 - Schools
 - 500' from Parks
 - 500' from Schools
 - State St. Prohibition
 - Binkhoff District
 - 1000' from Casa Esperanza
 - Allowed Areas - Proposed
 - Existing Dispensaries
 - Status
 - Approved and Operating
 - Approved and BP Issued
 - Appealed
 - Pending
 - Nonconforming



February 10, 2010



ATTACHMENT 5

For colored maps, go to [www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana](http://www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana)

Milpas



February 10, 2010



For colored maps, go to www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana

Medical Cannabis Dispensaries Mesa

RED ROSE WAY

- Legend**
- Parks
 - Schools
 - 500' from Parks
 - 500' from Schools
 - State St. Prohibition
 - Birkenhoff District
 - 1000' from Casa Esperanza
 - Allowed Areas - Proposed
 - Existing_Dispensaries
 - Status
 - Approved and Operating
 - Approved and BP Issued
 - Appealed
 - Pending
 - Nonconforming

ATTACHMENT 7

REEF CT

ELISE WAY

MEIGS RD

WIGHTHOUSE RD

EL FARO

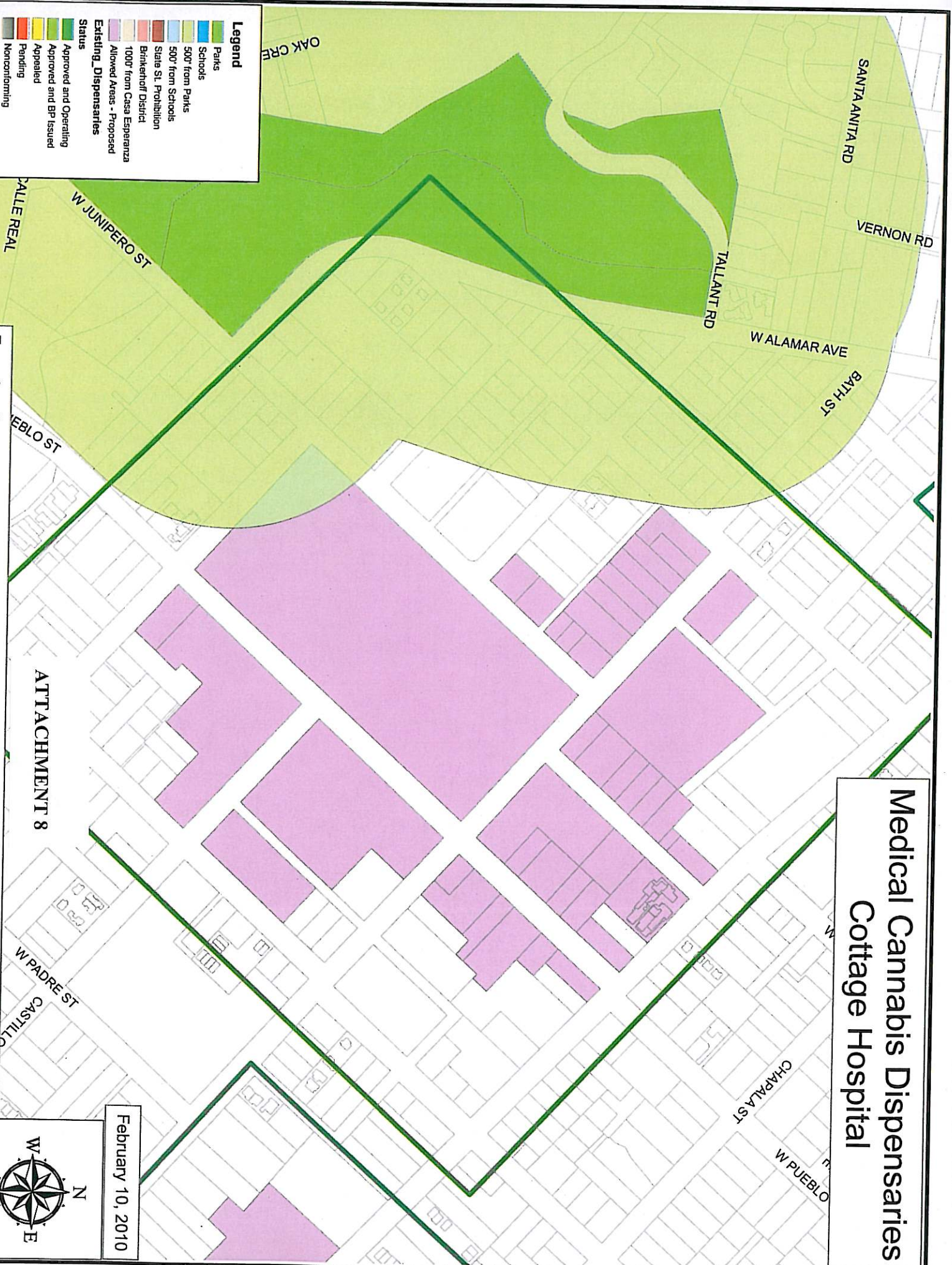
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February 10, 2010

For colored maps, go to [www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana](http://www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana)



Medical Cannabis Dispensaries Cottage Hospital



February 10, 2010



For colored maps, go to [www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana](http://www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical_Marijuana)

ATTACHMENT 8

Pending, Approved, Appealed, Permitted, and Nonconforming Dispensaries
Necessary Actions Upon Ordinance Adoption
February 9, 2010, Page 1 of 2

Address	Status	Location Meets Current Ordinance?	Location Meets Revised Ordinance?	Action Required upon Adoption of Revised Ordinance	Notes
MILPAS					
331 N. Milpas	Permitted	Yes	Yes	Amend operational plan	
500 N. Milpas	Permitted	Yes	No, but OK to remain	Amend operational plan	
DOWNTOWN EAST					
631 Olive	Permitted	Yes	No, but OK to remain	Amend operational plan	
302 E Haley	Approved by SHO Appealed to PC	Yes, but within 500 feet of 234 E. Haley	No, in same area as a permitted dispensary	Withdraw application	
234 E. Haley	Application is Pending	Yes, but within 500 feet of 302 E. Haley	No, in same area as a permitted dispensary	Withdraw application	
OUTER STATE					
16 S. La Cumbre	Application is Pending	No	Yes	Continue processing application	Applicant owns 3128 State, which must close
3128 State	Nonconforming	No, too close to MacKenzie Park	No	6 months to close	
3516 State	Nonconforming status in dispute	Yes	Yes	6 months to get permit or close	Staff believes that this dispensary lost its nonconforming status. Cease and desist order issued.

Pending, Approved, Appealed, Permitted, and Nonconforming Dispensaries

Necessary Actions Upon Ordinance Adoption

February 9, 2010, Page 1 of 2

Address	Status	Location Meets Current Ordinance?	Location Meets Revised Ordinance?	Action Required upon Adoption of Revised Ordinance	Notes
DE LA VINA					
2915 De la Vina	Application is Pending. Legal status is in Dispute	Yes	Yes	Continue processing application.	Staff believes that this dispensary never had nonconforming status. Cease-and-Desist order issued. If current application is approved, this dispensary could remain.
DOWNTOWN WEST					
403 Chapala	Application is Pending	Yes	Yes	Continue processing application	These three applications are pending in Downtown West area. The first application to be deemed complete will be allowed to proceed to hearing.
826 De la Vina	Application is Pending	Yes	Yes	Continue processing application	
211 W. Carrillo	Application is Pending	Yes	Yes	Continue processing application	
741 Chapala	Approved by SHO Appealed to PC	Yes	No, in Existing Mixed Use Bldg.	Withdraw Application	
100 E. Haley	Nonconforming status in dispute	No, too close to Veracruz Park	No	6 months to close	Staff believes that this dispensary lost its nonconforming status. Cease and desist order issued, case going to court
26 Parker Way	Nonconforming status in dispute	Yes	Yes	6 months to get permit or close	Staff believes that this dispensary lost its nonconforming status. Cease and desist order issued, case going to court

**COUNCIL INTRODUCTION DRAFT
FEBRUARY 23, 2010
SHOWING CHANGES FROM CURRENT MUNICIPAL CODE**

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING THE
MUNICIPAL CODE BY REVISING CHAPTER
28.80 AND ESTABLISHING REVISED
REGULATIONS AND PROCEDURES FOR
MEDICAL MARIJUANA DISPENSARIES.**

The City Council of the City of Santa Barbara does ordain as follows:

SECTION ONE. Chapter 28.80 of Title 28 of the Santa Barbara Municipal Code, entitled "Medical Marijuana Dispensaries," is amended to read as follows:

Section 28.80.010 Purpose and Intent.

It is the purpose and intent of this chapter to regulate the locations of medical marijuana dispensaries in order to promote the health, safety, and general welfare of residents and businesses within the City. It is neither the intent nor the effect of this chapter to condone or legitimize the use or possession of marijuana except as allowed by California law.

Section 28.80.020 Definitions.

For the purpose of this chapter, the following words and phrases shall have the following meanings:

A. Applicant. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.

B. Drug Paraphernalia. As defined in California Health and Safety Code Section 11014.5, and as may be amended from time to time.

C. Identification Card. As defined in California Health and Safety Code Section 11362.71 and as may be amended from time to time.

D. Medical Marijuana Dispensing Collective or Dispensary.

Any association, cooperative, affiliation, or collective of persons where multiple qualified patients or primary care givers are organized to provide education, referral, or network services, and facilitation or assistance in the lawful distribution of medical marijuana. "Dispensary" shall include any facility or location where the primary purpose is to dispense medical marijuana (i.e., marijuana) as a medication that has been recommended by an "attending physician" [as that term is defined in Health & Safety Code Section 11362.7(a)] and where medical marijuana is made available to or distributed by or to a primary caregiver or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A dispensary shall not include dispensing by primary caregivers to qualified patients in the following locations so long as the location of the clinic, health care facility, hospice, or residential care facility is otherwise permitted by the Municipal Code or by applicable state laws:

1. a clinic licensed pursuant to Chapter 1 of Division 2 of the state Health and Safety Code;
2. a health care facility licensed pursuant to Chapter Two of Division 2 of the state Health and Safety Code;
3. a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the state Health and Safety Code;
4. residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the state Health and Safety Code;
5. a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the state Health and Safety Code;

provided that any such clinic, health care facility, hospice or residential care facility complies with applicable laws including, but not limited to, Health and Safety Code Section 11362.5 et seq..

E. Permittee. The person to whom either a dispensary permit is issued by the City and who is identified as a primary caregiver in California Health and Safety Code Section 11362.7, subdivision (d), ~~and~~ or (e).

F. Person. An individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

G. Person with an Identification Card. As set forth in California Health and Safety Code Section 11362.5 et seq., and as amended from time to time.

H. Physician. A licensed medical doctors including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

I. Primary Caregiver. As defined in subdivision (d) of California Health and Safety Code Section 11362.7 as it may be amended from time to time.

J. Qualified Patient. As defined in California Health and Safety Code Section 11362.5 et seq., and as it may be amended from time to time.

K. School. An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle, or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private.

28.80.030 Dispensary Permit Required to Operate.

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a dispensary unless the person first obtains and continues to maintain in full force and effect a Dispensary Use Permit issued by the City Staff Hearing Officer pursuant to this Chapter, or by the Planning Commission on an appeal from a decision by the Staff Hearing Officer.

28.80.040 Business License Tax Liability.

An operator of a dispensary shall be required to apply for and obtain a Business Tax Certificate pursuant to Chapter 5.04. as a prerequisite to obtaining a permit pursuant to the terms of this Chapter, as required by the State Board of Equalization. Dispensary sales shall be subject to sales tax in a manner required by state law.

28.80.050 Imposition of Dispensary Permit Fees.

Every application for a dispensary permit or renewal shall be accompanied by an application fee, in an amount established by resolution of the City Council from time to time at a amount calculated to recover the City's full cost of reviewing and issuing the dispensary permit pursuant to this chapter. This application or renewal fee shall not include the standard City fees for fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies.

28.80.060 Limitations on the Permitted Location of a Dispensary.

A. Permissible Zoning for Dispensaries. ~~A dispensary may only be located within the C 2 or C M zoned areas of the City as so designated in the General Plan, Title 28 of the Municipal Code, and City Zoning map provided, however, that~~ Dispensaries may only also be located on parcels within the City zoned for commercial uses and on those street block faces listed in the exhibit to this Chapter designated as "Medical Marijuana Dispensaries - Allowed Locations" and dated as of February 23, 2010. situated as follows:

- ~~1. any parcel fronting on State Street between Calle Laureles and the westerly boundary of the City at the intersection State Street and Calle Real;~~
- ~~2. any parcel fronting on Milpas between Canon Perdido Street and Carpinteria Street;~~
- ~~3. any C P zoned parcel fronting on Cliff Drive within 1000 feet of the intersection of Cliff Drive and Meigs Road;~~
4. any parcel fronting on De La Vina Street between Alamar Street and State Street;

~~5. any parcel fronting on Mission Street between State Street and De La Vina Street;~~

~~6. any parcel on Chapala, Anacapa, or Santa Barbara Street between Sola Street and U.S. Highway 101;~~

~~7. any parcel on Haley Street or Gutierrez Street between Santa Barbara Street and Olive Street.~~

B. Storefront Locations. Except for those locations shown as allowed within the Cottage Hospital Area on the exhibit attached to this Chapter which have been specifically approved by the Staff Hearing Officer as non-storefront locations pursuant to this Chapter, a dispensary shall only be located in a visible store-front type location which provides good public views of the dispensary entrance, its windows, and the entrance to the dispensary premises from a public street.

C. Areas and Zones Where Dispensaries Not Permitted.

Notwithstanding subparagraph (A) above, a dispensary shall not be allowed or permitted in the following locations or zones:

~~1. On a parcel located within 500 feet of a school or a park; or~~

~~1.2.~~ On a parcel located within ~~500~~ 1000 feet of a permitted dispensary; or

~~2.3.~~ On a parcel ~~fronting~~ on State Street between Cabrillo Boulevard and Arrellaga Street; or

~~4. On a parcel zoned R-O or zoned for residential use.~~

3. On a parcel being used as a mixed residential/commercial use condominium project at the time of the adoption of the ordinance enacting this Chapter.

D. Locational Measurements. The distance between a dispensary and above-listed uses shall be made in a straight line from any parcel line of the real property on which the dispensary is located to the parcel line the real property on which the facility, building, or structure, or portion of the building or structure, in which the above listed use occurs or is located. For the purposes of determining compliance with the locational restrictions imposed by this section, the permissibility of a proposed dispensary location shall be determined by City staff

based on the date the permit application has been deemed complete by the City with the earliest complete applications deemed to have priority over any subsequent dispensary application for any particular allowed location.

E. Maximum Number of Dispensary Allowed Dispensary Permits.

Notwithstanding the above, the City may not issue a total of more than seven (7) dispensary permits at any one time and no more than seven (7) permitted dispensaries may legally operate within the City including those dispensaries which are open and operating in a legal nonconforming manner at the time of the adoption of the ordinance amending this Chapter.

F. One Dispensary for Each Area of the City. No more than one dispensary may open and operate in each of the eight areas of the City designated as allowed dispensary location areas in the exhibit attached to this Chapter except for those areas which, at the time of the adoption of the ordinance amending this Chapter, already have more than one dispensary on a legal non-conforming basis - in which case a legal non-conforming dispensary may be allowed to continue to operate in such an area.

28.80.070 Operating Requirements for Dispensaries.

Dispensary operations shall permitted and maintained only in compliance with the following day-to-day operational standards:

A. Criminal History. A dispensary permit applicant, his or her agents or employees, volunteer workers, or any person exercising managerial authority over a dispensary on behalf of the dispensary applicant shall not have been convicted of a felony or be on probation or parole for the sale or distribution of a controlled substance.

B. Minors. It is unlawful for any dispensary permittee, operator, or other person in charge of any dispensary to employ any person who is not at least 18 years of age. Persons under the age of 18 shall not be allowed on the premises of a dispensary unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian. The entrance to a dispensary shall be clearly and legibly posted with a notice indicating that person under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian.

C. Dispensary Size and Access. The following dispensary and access restrictions shall apply to all dispensaries permitted by the Chapter:

1. A dispensary shall not be enlarged in size (i.e., increased floor area) without a prior approval from the Staff Hearing Officer amending the existing dispensary permit pursuant to the requirements of this Chapter.
2. The entrance area of the dispensary building shall be strictly controlled; A viewer or video camera shall be installed in the door that allows maximum angle of view of the exterior entrance.
3. Dispensary personnel shall be responsible for monitoring the real property of the dispensary site activity (including the adjacent public sidewalk and rights-of-way) of the block within which the dispensary is operating for the purposes of controlling loitering.
4. Only dispensary staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be permitted within a dispensary.
5. Qualified patients or primary caregivers shall not visit a dispensary without first having obtained a valid written recommendation from their physician recommending use of medical marijuana.
6. Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area along with dispensary personnel.
7. Restrooms shall remain locked and under the control of Dispensary management at all times.

D. Dispensing Operations. The following restrictions shall apply to all dispensing operations by a dispensary:

1. A dispensary shall only dispense to qualified patients or a primary caregivers with a currently valid physicians approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et seq.. Dispensaries shall require such persons to provide valid official identification, such as a Department of Motor Vehicles driver's license or State Identification Card.

2. Prior to dispensing medical marijuana, the dispensary shall obtain a verification from the recommending physician's office personnel that the individual requesting medical marijuana is or remains a qualified patient pursuant to state Health & Safety Code Section 11362.5.

3. A dispensary shall not have a physician on-site to evaluate patients and provide a recommendation or prescription for the use of medical marijuana.

E. Consumption Restrictions. The following medical marijuana consumption restrictions shall apply to all permitted dispensaries:

1. Marijuana shall not be consumed by patients on the premises of the dispensary.

The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the dispensary's entrance. Dispensary employees who are qualified patients may consume marijuana within the enclosed building area of the premises, provided such consumption occurs only via oral consumption (i.e., eating only) but not by means of smoking or vaporization.

2. Dispensary operations shall not result in illegal re-distribution or sale of medical marijuana obtained from the dispensary, or use or distribution in any manner which violates state law.

F. Retail Sales of Other Items by a Dispensary. The retail sales of dispensary related or marijuana use items may be allowed under the following circumstances:

1. With the approval of the Staff Hearing Officer, a dispensary may conduct or engage in the commercial sale of specific products, goods, or services in addition to the provision of medical marijuana on terms and conditions consistent with this chapter and applicable law.

2. No dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical marijuana.

3. A dispensary shall meet all the operating criteria for the dispensing of medical marijuana as is required pursuant

to California Health and Safety Code Section 11362.5 et seq.

G. Operating Plans. In connection with a permit application under this Chapter, the applicant shall provide, as part of the permit application, a detailed Operations Plan and, upon issuance of the dispensary permit, shall operate the dispensary in accordance with the Operations Plan as such plan is approved by the Staff Hearing Officer:

1. Floor Plan. A dispensary shall have a lobby waiting area at the entrance to the dispensary to receive clients, and a separate and secure designated area for dispensing medical marijuana to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

2. Storage. A dispensary shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical marijuana.

3. Security Plans. A dispensary shall provide adequate security on the premises, in accordance with a security plan approved by the Chief of Police and as reviewed by the Staff Hearing Officer, including provisions for adequate lighting and alarms, in order to insure the safety of persons and to protect the premises from theft. All security guards used by dispensaries shall be licensed and employed by a state licensed private-party operator security company retained by the Dispensary and each security guard used shall possess a valid state Department of Consumer Affairs "Security Guard Card" at all times. Security guards shall not possess or carry firearms or tazers while working at a Dispensary.

5. Security Cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage and to report loitering, crime, illegal or nuisance activities. Security video shall be maintained for a period of not less than 72 hours.

6. Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the dispensary at all times.

7. **Emergency Contact.** A dispensary shall provide the Chief of Police with the name, cell phone number, and facsimile number of an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the dispensary.

H. Dispensary Signage and Notices.

1. A notice shall be clearly and legibly posted in the dispensary indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the dispensary is prohibited.

2. Signs on the premises shall not obstruct the entrance or windows.

3. Address identification shall comply with Fire Department illuminated address signs requirements.

4. Business identification signage shall comply with the City's Sign Ordinance (SBMC Chapter 22.70) and be limited to that needed for identification only, consisting of a single window sign or wall sign that shall not exceed six square feet in area or 10 percent of the window area, whichever is less.

I. Employee Records. Each owner or operator of a dispensary shall maintain a current register of the names of all volunteers and employees currently working at or employed by the dispensary on-site at the dispensary at all times, and shall disclose such registration for inspection by any City officer or official but only for the purposes of determining compliance with the requirements of this chapter.

J. Qualified Patient Records. A dispensary shall maintain confidential health care records of all qualified patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., (as a protection of the confidentiality of the cardholders) or a copy of the written recommendation from a physician or doctor of osteopathy stating the need for medical marijuana under state Health & Safety Code Section 11362.5. Such records shall be maintained on-site at the dispensary at all times.

M. Staff Training. Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with

state and local law and this Chapter, and properly trained or professionally-hired security personnel.

N. Site Management.

1. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject dispensary.
2. The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.
3. The operator shall provide patients with a list of the rules and regulations governing medical marijuana use and consumption within the City and recommendations on sensible marijuana etiquette.

O. Trash, Litter, Graffiti.

1. The operator shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator as needed to control litter, debris and trash.
2. The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.

P. Compliance with Other Requirements. The dispensary operator shall comply with all provisions of all local, state or federal laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

Q. Display of Permit. Every dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such dispensary in a conspicuous place so that the same may be readily seen by all persons entering the dispensary.

R. Alcoholic Beverages. No dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control

for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

S. Parking Requirements. Dispensaries shall be considered office uses relative to the parking requirements imposed by Section 28.90.100(I).

28.80.080 Dispensary Permit Application - Preparation and Filing.

A. Application Filing. A complete Performance Standard Permit use permit application submittal packet shall be submitted including all necessary fees and all other information and materials required by the City and this chapter. All applications for permits shall be filed with the Community Development Department, using forms provided by the City, and accompanied by the applicable filing fee. It is the responsibility of the applicant to provide information required for approval of the permit. The application shall be made under penalty of perjury.

B. Eligibility for Filing. Applications may only be filed by the owner of the subject property, or by a person with a lease signed by the owner or duly authorized agent of the owner expressly allowing them the right to occupy the property for the intended dispensary use.

C. Filing Date. The filing date of any application shall be the date when the City receives the last submission of information or materials required in compliance with the submittal requirements specified herein.

D. Effect of Incomplete Filing. Upon notification that an application submittal is incomplete, the applicant shall be granted an extension of time to submit all materials required to complete the application within 30 days. If the application remains incomplete in excess of 30 days the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

E. Effect of Other Permits or Licenses. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a dispensary permit.

28.80.090 Criteria for Review of Dispensary Applications by Staff Hearing Officer.

A. Decision on Application. Upon an application for a Dispensary permit being deemed complete, the Staff Hearing Officer, or the Planning Commission on appeal of a decision of the Staff Hearing Officer, shall either issue a Dispensary permit, issue a Dispensary permit with conditions in accordance with this chapter, or deny a Dispensary permit.

B. Criteria for Issuance. The Staff Hearing Officer, or the Planning Commission on appeal, shall consider the following criteria in determining whether to grant or deny a dispensary permit:

1. That the dispensary permit is consistent with the intent of the state Health & Safety Code for providing medical marijuana to qualified patients and primary caregivers and the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein.
2. That the proposed location of the Dispensary is not identified by the City Chief of Police as an area of increased or high crime activity. ~~(e.g., based upon crime reporting district/statistics as maintained by the Police Department.~~
3. For those applicants operating other Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or arrests in the area or to the applicant's existing dispensary location.
4. That all required application fees have been paid and reporting requirements have been satisfied in a timely manner.
5. That issuance of a dispensary permit for the dispensary size requested is appropriate justified to meet needs of community for access to medical marijuana.
6. That issuance of the dispensary permit would serve needs of City residents within a proximity to this location.

7. That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule, or regulation and no significant nuisance issues or problems are likely or anticipated ~~or resulted~~ and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.

8. That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises; the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

9. That all reasonable measures have been incorporated into the security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference of the operation of another business.

10. That the dispensary is likely to have no potentially ~~would not~~ adversely affect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance; or that the dispensary will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

11. That any provision of the Municipal Code or condition imposed by a City issued permit, or any provision of any other local, or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws will not be violated.

12. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

13. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.

28.80.100 Appeal from Staff Hearing Officer or Planning Commission Determination.

A. Appeal to the Planning Commission. An applicant or any interested party who disagrees with the Staff Hearing Officer's decision to issue, issue with conditions, or to deny a dispensary permit may appeal such decision to the City Planning Commission by filing an appeal pursuant to the requirements of subparagraph (B) of Section 28.05.020 of the Municipal Code.

B. Notice of Planning Commission Appeal Hearing. Upon the filing of an appeal pursuant to subparagraph (A) above, the Community Development Director shall provide public notice in accordance with the notice provisions of SBMC Section 28.87.380.

C. Appeal of Planning Commission Decision. ~~Notwithstanding subparagraph (C) of Section 28.05.020, Section 28.87.360, and Section 1.30.050, A~~ a decision by the Planning Commission on appeal of the Staff Hearing Officer pursuant to this Chapter may be appealed to the City Council pursuant to the authority of Section 28.05.020(C). ~~shall be final and may not be appealed to the City Council.~~

28.80.110 Suspension and Revocation by Planning Commission.

A. Authority to Suspend or Revoke a Dispensary Permit.

Consistent with Section 28.87.360, any dispensary permit issued under the terms of this chapter may be suspended or revoked by the Planning Commission when it shall appear to the Commission that the permittee has violated any of the requirements of this chapter or the dispensary is operated in a manner that violates the provisions of this chapter, including the operational requirements of this Chapter, or in a manner which conflicts with state law.

B. Annual Review of Dispensary Operations. The staff of the Community Development Department and the Police Department are hereby authorized to conduct an annual review of the operation

of each permitted dispensary within the City for full compliance with the operational requirements of this Chapter, including specifically a verification that all persons employed or volunteering at the dispensary have not been convicted of or on probation for a crime related to the possession, sale, or distribution of controlled substances. A fee in an amount established by resolution of the City Council may be established in order to reimburse the City for the time involved in this review process. The staff may initiate a permit suspension or revocation process for any dispensary which is found not to be in compliance with the requirements of this Chapter or which is operating in a manner which constitutes a public nuisance.

C. B- Suspension or Revocation - Written Notice. Except as otherwise provided in this chapter, no permit shall be revoked or suspended by virtue of this chapter until written notice of the intent to consider revocation or suspension of the permit has been served upon the person to whom the permit was granted at least ten (10) days prior to the date set for such review hearing and the reasons for the proposed suspension or revocation have been provided to the permittee in writing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the permittee, or by depositing such notice in the U.S. mail in a sealed envelope, postage prepaid, (via regular mail and return receipt requested), addressed to the person to be notified at his or her address as it appears in his or her application for a dispensary permit.

C. Appeal of Planning Commission Decision. ~~Notwithstanding subparagraph (C) of Section 28.05.020, Section 28.87.360, and Section 1.30.050, A~~ a decision by the Planning Commission to suspend or revoke a permit issued pursuant to this Chapter ~~shall be final and may not be appealed to the City Council.~~ may be appealed to the City Council pursuant to the authority of section 28.05.020(C).

28.80.120 Transfer of Dispensary Permits.

A. Permit - Site Specific. A permittee shall not operate a dispensary under the authority of a dispensary permit at any place other than the address of the dispensary stated in the application for the permit. All dispensary permits issued by the City pursuant to this chapter shall be non-transferable.

B. Transfer of a Permitted Dispensary. A permittee shall not transfer ownership or control of a dispensary or attempt to transfer a dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the Staff Hearing Officer pursuant to the permitting requirements of this chapter stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Community Development Department in accordance with this all provisions of this chapter accompanied by the required application fee.

C. Request for Transfer with a Revocation or Suspension Pending. No dispensary permit may be transferred (and no permission for a transfer may be issued) when the Community Development Department has notified in writing the permittee that the permit has been or may be suspended or revoked and a notice of such suspension or revocation has been provided.

D. Transfer without Permission. Any attempt to transfer a permit either directly or indirectly in violation of this section is declared void, and the permit shall be deemed revoked.

28.80.130 Medical Marijuana Vending Machines.

No person shall maintain, use, or operate a vending machine which dispenses marijuana to a qualified patient or primary caregiver unless such machine is located within the interior of a duly permitted dispensary.

SECTION TWO.

A. Dispensaries Permitted under the March 2008 Ordinance. Those Dispensaries which were authorized and permitted pursuant to the Santa Barbara Municipal Code Chapter 28.80 (as adopted on March 25, 2008 as City Ordinance No. 5449) shall be deemed pre-existing legal non-conforming uses of the real property locations upon which they are situated provided that, upon the effective date of this Ordinance, such dispensaries operate in accordance with all dispensary operational provisions added to Santa Barbara Municipal Code Chapter 28.80 by this Ordinance.

B. Dispensaries Which Have Operated Legally Prior to and Since the Effective Date of Ordinance No. 5449. Those dispensaries which opened and operated in a legal manner prior to the effective date of City Ordinance No. 5449 and which have remained in a legal nonconforming manner of operation since that time, may, despite its non-conforming location, remain as a legal non-conforming use for a period of one hundred eighty

(180) days from the effective date of this Ordinance, provided that such a dispensary implements and observes the following operational conditions prior to the effective date of this Ordinance:

1. the operation of the dispensary is not discontinued for a period of time in excess of thirty (30) consecutive days;
2. the operation of the dispensary complies with all portions of Chapter 28.80, as revised and enacted by this Ordinance, and;
3. the dispensary shall be subject to the requirements for non-conforming uses of SBMC section 28.87.030 until such time that it has been discontinued or permitted at a new allowed location pursuant to this Ordinance.

SECTION THREE. City Ordinance No. 5510 entitled "An Ordinance Of The Council Of The City Of Santa Barbara Extending A Temporary Suspension Of The Right To Apply For Or To Obtain A Permit For The Opening Or Operation Of Medical Marijuana Dispensaries Otherwise Permitted By Santa Barbara Municipal Code Chapter 28.80 On An Interim Basis" adopted on February 2, 2010 is hereby repealed as of the effective date of this Ordinance.

ORDINANCE NO. ____
MEDICAL MARIJUANA DISPENSARIES
SANTA BARBARA MUNICIPAL CODE CHAPTER 28.80
ALLOWED LOCATION EXHIBIT

1. Outer State Street Area:

- a. 3400 - 3900 blocks of State Street
- b. All parcels on south La Cumbre Road
- c. All parcels on south La Cumbre Lane
- d. All parcels on La Cumbre Plaza Lane
- e. 00-100 blocks of south Hope Avenue

2. Upper De la Vina Area:

- a. 2600 – 2900 blocks of De la Vina Street

3. Mission Street Area:

- a. 1900-2000 blocks of De la Vina Street
- b. 100 block of west Mission Street
- c. 1800–1900 blocks of State Street
- d. 1400 block of Chapala Street

4. Downtown West Area:

- a. 300-400 blocks of Chapala Street
- b. 600-1000 blocks of Chapala
- c. 300-400 blocks of De la Vina
- d. 800-1000 blocks of De la Vina
- e. 00-400 blocks of west Carrillo
- f. 00-100 blocks of west Canon Perdido
- g. 100 blocks of west De la Guerra
- h. 00-100 blocks of west Ortega
- i. 00-200 blocks of west Gutierrez
- j. 00 block of Parker Way
- k. 00 block of west Figueroa
- l. 300 block of east Carrillo
- m. 900 block of St. Vincent
- n. 00 block of west Haley
- o. 00 block of east Gutierrez

5. Downtown East Area:

- a. 500-600 blocks of Laguna
- b. 900 block of Laguna Street
- c. 300-400 blocks of east Cota

6. Milpas Street:

- a. 00–400 blocks of north Milpas Street

7. Mesa Area:

- a. 1800–2000 blocks of Cliff Drive

8. Cottage Hospital Area:

- a. 200 block of Nogales
- b. 200-400 blocks of west Pueblo
- c. 2400-2500 blocks of Bath
- d. 2300 block of Castillo
- e. 300 block of West Junipero